

Message Text

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TAGS: ETRD, GATT, MTN

SUBJ:MEETING OF THE TECHNICAL DRAFTING GROUP ON IMPORT

1. THE TRADE POLICY STAFF COMMITTEE TODAY APPROVED THE
FOLLOWING POSITION PAPER (TPSC 77-41) FOR THE SUBJECT
MEETING.

2. PROBLEM. THE NTM SUBGROUP ON QUANTITATIVE RESTRICTIONS
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(QR'S) AND IMPORT LICENSING PROCEDURES WILL HOLD A TECH-
NICAL DRAFTING GROUP MEETING BEGINNING MAY 23, 1977. THE
PURPOSE OF THIS MEETING IS TO CONSIDER COUNTRIES' SUG-
GESTED CHANGES TO THE TWO DRAFT TEXTS ON IMPORT LICENSING
PROCEDURES, MAKE APPROPRIATE CHANGES TO THE DRAFT TEXTS
ON THE BASIS OF THOSE SUGGESTED CHANGES, AND REPORT ANY
PROGRESS BACK TO THE QR SUBGROUP. GUIDANCE IS NEEDED FOR

THE U.S. DELEGATION.

3. U.S. OBJECTIVES. THE U.S. OBJECTIVES AT THIS MEETING ARE TO PERSUADE OTHER DELEGATIONS TO (1) ELIMINATE AUTOMATIC LICENSING SYSTEMS, EXCEPT POSSIBLY FOR SAFEGUARD RELATED PURPOSES, AND (2) ACCEPT THE U.S. SUGGESTED CHANGES TO THE DRAFT TEXT ON LICENSING TO ADMINISTER IMPORT RESTRICTIONS AS A REVISED DRAFT TEXT TO BE SUBMITTED FOR CONSIDERATION BY THE QR SUBGROUP.

4. RECOMMENDATIONS.

(A) ON THE ISSUE OF AUTOMATIC IMPORT LICENSING, THE U.S. REPRESENTATIVE MAY:

(1) REITERATE THAT ALL AUTOMATIC LICENSING SYSTEMS SHOULD BE ELIMINATED BECAUSE THEIR OBJECTIVES CAN BE ACCOMPLISHED BY OTHER MEANS, AND THEY ARE SOMETIMES USED TO RESTRICT TRADE.

(2) INDICATE, HOWEVER, THAT THE UNITED STATES WOULD BE WILLING TO DISCUSS THE USE OF AUTOMATIC LICENSING SYSTEMS FOR SAFEGUARD RELATED PURPOSES IN THE SAFEGUARDS GROUP.

(B) ON THE ISSUE OF LICENSING TO ADMINISTER IMPORT RESTRICTIONS THE U.S. REPRESENTATIVE MAY:

(1) REITERATE ITS SUPPORT FOR THE GENERAL OBJECTIVES LIMITED OFFICIAL USE

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OF THE DRAFT TEXT ON LICENSING TO ADMINISTER IMPORT RESTRICTIONS, BUT CONTINUE TO POINT OUT THAT THE PROVISIONS OF THE TEXT LACK PRECISION, CLARITY AND DO NOT ADDRESS CERTAIN PROBLEMS THAT ARISE IN THIS AREA.

(2) SEEK AGREEMENT ON A SINGLE TEXT ALONG THE LINES SUGGESTED BY THE UNITED STATES IN MTN/NTM/W/88 (WITH DISAGREED PORTIONS OR ALTERNATIVE FORMULATIONS IN BRACKETS IF NECESSARY) AS A BASIS FOR DISCUSSION AT SUBSEQUENT MEETINGS OF THE QR SUBGROUP.

(3) THANK THE SECRETARIAT FOR PREPARING THE INFORMATIONAL NOTE DESCRIBING BY WAY OF EXAMPLE AND EXPLANATION THE TYPES OF IMPORT LICENSING SYSTEMS COVERED BY THE TWO DRAFT TEXTS, AND NOTE THAT IT POINTS UP THE NEED FOR INTERNATIONAL RULES TO HARMONIZE THE ADMINISTRATION OF LICENSING PRACTICES.

(4) INDICATE THAT, IN THE U.S. VIEW, THE DRAFT TEXT

ON LICENSING TO ADMINISTER IMPORT RESTRICTIONS (AND THE U.S. PROPOSAL FOR A REVISED DRAFT TEXT) SHOULD APPLY TO ALL LICENSING SYSTEMS USED TO ADMINISTER IMPORT RESTRICTIONS EMPLOYED PURSUANT TO THE GATT, AND THAT SUCH SYSTEMS WOULD INCLUDE LICENSING TO ADMINISTER QUOTAS, AS WELL AS DISCRETIONARY LICENSING, IN BOTH DEVELOPED AND DEVELOPING COUNTRIES.

5. DISCUSSION.

AUTOMATIC IMPORT LICENSING. AT THE MARCH MEETING OF THE TECHNICAL DRAFTING GROUP ON IMPORT LICENSING PROCEDURES, THE U.S. REPRESENTATIVE URGED THAT ALL AUTOMATIC LICENSING BE ELIMINATED, BUT NOTED THAT THE UNITED STATES WOULD BE WILLING TO DISCUSS AUTOMATIC LICENSING FOR SAFEGUARD RELATED PURPOSES IN THE SAFEGUARDS GROUP. THE U.S. POSITION WAS NOT SUPPORTED BY ANY OTHER DELEGATION.

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MOREOVER, SEVERAL DELEGATIONS (E.G. BRAZIL, CANADA AND ISRAEL) HAVE INDICATED THAT THE NEED FOR AUTOMATIC LICENSING EXTENDS BEYOND SAFEGUARD RELATED MEASURES (ARTICLE XIX), WITHOUT PRECISELY DEFINING WHAT ANY ADDITIONAL NEEDS ARE.

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CURRENTLY THERE ARE NO SPECIFIC GATT RULES COVERING THE USE OF AUTOMATIC LICENSING. CONSEQUENTLY, SUCH SYSTEMS VARY CONSIDERABLY FROM COUNTRY TO COUNTRY AND SOMETIMES, EITHER INADVERTENTLY OR INTENTIONALLY, RESTRICT TRADE. SINCE IT NOW APPEARS THAT THE UNITED STATES CANNOT ACHIEVE THE ELIMINATION OF ALL AUTOMATIC LICENSING IN THE MTN, WE MAY WANT TO SEEK AN AGREEMENT THAT WOULD MINIMIZE THE TRADE DISTORTING EFFECTS OF SUCH SYSTEMS. BEFORE WE CONSIDER REVISING OUR POSITION ON THIS ISSUE, HOWEVER, WE SHOULD HAVE A CLEAR UNDERSTANDING OF THOSE INSTANCES WHERE THERE IS A LEGITIMATE NEED FOR AUTOMATIC LICENSING OTHER THAN FOR SAFEGUARD PURPOSES.

THEREFORE WE WILL SOON REQUEST U.S. EMBASSIES IN BRAZIL, CANADA, ISRAEL AND OTHER CONCERNED COUNTRIES TO OBTAIN FROM THOSE COUNTRIES DETAILED DESCRIPTIONS OF THE VARIOUS CIRCUMSTANCES IN WHICH AUTOMATIC LICENSING IS DEEMED NECESSARY. ONCE THE U.S. EMBASSIES HAVE OBTAINED SUCH INFORMATION AND FORWARDED IT TO US, WE WILL BE IN A BETTER POSITION TO CONSIDER REVISING OUR POSITION ON AUTOMATIC LICENSING IN TIME FOR THE NEXT QR SUBGROUP MEETING. UNTIL THAT TIME, HOWEVER, THE U.S. REPRESENTATIVE SHOULD CONTINUE TO MAINTAIN THAT ALL AUTOMATIC LICENSING SYSTEMS SHOULD BE ELIMINATED. THE U.S. REPRESENTATIVE SHOULD ALSO BE GUIDED BY TPSC 77-13 FOR A GENERAL DISCUSSION OF

THIS ISSUE.

LICENSING TO ADMINISTER IMPORT RESTRICTIONS. AT THE MARCH MEETING OF THE TECHNICAL DRAFTING GROUP, THE U.S. REPRESENTATIVE PRESENTED A PROPOSAL FOR A REVISED DRAFT LIMITED OFFICIAL USE

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TEXT ON LICENSING TO ADMINISTER IMPORT RESTRICTIONS (MTN/NTM/W/88). THE U.S. PROPOSAL ATTEMPTS TO ADD PRECISION AND CLARITY TO THE PRESENT DRAFT TEXT, AND INCLUDES ADDITIONAL PROVISIONS DEALING WITH PROBLEM AREAS OF CONCERN TO U.S. PRIVATE SECTOR ADVISORY COMMITTEES. ALTHOUGH THE PROPOSAL WAS FAVORABLY RECEIVED IN GENEVA, MOST DELEGATIONS WANTED MORE TIME TO STUDY ITS PROVISIONS BEFORE COMMENTING IN DETAIL ON IT.

THE GENEVA DELEGATION IS CURRENTLY CONDUCTING A NUMBER OF BILATERAL CONSULTATIONS TO NARROW DIFFERENCES BETWEEN COUNTRIES ON THE U.S. PROPOSAL. HOPEFULLY THESE CONSULTATIONS WILL FACILITATE PROGRESS TOWARD SEEKING AGREEMENT ON A SINGLE TEXT ALONG THE LINES OF THE U.S. PROPOSAL AT THE UPCOMING TECHNICAL DRAFTING GROUP MEETING.

AT THE MARCH MEETING OF THE TECHNICAL DRAFTING GROUP, THERE WAS ALSO CONFUSION OVER WHAT TYPES OF LICENSING SYSTEMS WOULD BE COVERED BY THE DRAFT TEXT ON LICENSING TO ADMINISTER IMPORT RESTRICTIONS. AS A RESULT OF THIS CONFUSION, THE U.S. REPRESENTATIVE REQUESTED THE SECRETARIAT TO PREPARE AN INFORMATIONAL NOTE THAT DESCRIBED BY WAY OF EXAMPLE AND EXPLANATION THE TYPES OF IMPORT LICENSING SYSTEMS THAT WOULD BE COVERED BY THE TWO DRAFT TEXTS. UNFORTUNATELY, THE INFORMATIONAL NOTE DRAWN UP BY THE SECRETARIAT PROBABLY WILL NOT CLEAR UP THE CONFUSION ON THIS ISSUE. HOWEVER, THE FIRST PARAGRAPH IN THE LEFT HAND COLUMN OF THE TABLE ON AUTOMATIC LICENSING SYSTEMS IMPLIES THAT THE DRAFT TEXT ON LICENSING TO ADMINISTER IMPORT RESTRICTIONS WOULD COVER ALL LICENSING SYSTEMS USED TO ADMINISTER IMPORT RESTRICTIONS EMPLOYED PURSUANT TO, INTER ALIA, GATT ARTICLES XI, XII, XVII, XVIII, XIX, XX, AND XXI. THEREFORE THE DRAFT TEXT WOULD SEEM TO APPLY TO LICENSING TO ADMINISTER QUOTAS, AS WELL AS DISCRETIONARY LICENSING SYSTEMS, IN BOTH DEVELOPED AND DEVELOPING COUNTRIES. SUCH AN INTERPRETATION IS CONSISTENT WITH THE LIMITED OFFICIAL USE

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U.S. VIEW ON THIS MATTER. THE U.S. REPRESENTATIVE SHOULD

ALSO BE GUIDED BY TPSC 77-33 FOR A GENERAL DISCUSSION OF
THIS ISSUE. CHRISTOPHER

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